

#### REMARKS/ARGUMENTS

Claims 1, 2, 4, 7 and 8 are pending. Claims 1, 2, 4, 7 and 8 were rejected. No claims were withdrawn. No claims were merely objected to and no claims were allowed. By the foregoing amendment, no claims are canceled, claims 1, 7 and 8 are amended, and no new claims are added. Support for the amendments to claims 1, 7 and 8 may at least be found at page 26, line 3 through page 30, line 12 of the specification as originally filed. No new matter is presented.

#### Rejection under 35 U.S.C. §102(b)

The Examiner has rejected claims 1, 2, 7 and 8 under 35 U.S.C. §102(b) as being anticipated by the Jagged Alliance Instruction Manual (hereafter "JA2").

Applicants' claim 2 depends from independent claim 1. Applicants' claims 7 and 8 are independent claims.

The Examiner alleges the reference JA2 teaches generally the elements recited in claims 1-3, 7 and 8 at pages 4-5, 27-32, and 38-41. However, JA2 fails to disclose all of the elements recited in Applicants' independent claims 1, 7 and 8. Applicants' independent claims 1, 7 and 8 recite the term, "wherein the real time generation of image data is free of a turn-based generation of image data". Applicants' claimed subject matter indicates the real time generation of image data is free of a turn-based generation of image data. The examiner acknowledges and relies upon JA2 teaching turn-based combat play, which necessarily means the turn-based generation of image data.

For example, under the heading "Ending Combat" on page 32 of JA2, JA2 recites in part, "Turn-based combat automatically ends when your mercenaries go for a couple of turns without

spotting a live enemy. **The game then switches back to real-time mode.**" (emphasis added). According to this description, the game is not being executed in "real-time mode" during the combat sequences in JA2. In contrast, the game embodied in the elements recited in Applicants' independent claims 1, 7 and 8 does utilize a combat state occurring in real-time mode. Furthermore, due to the explicit instructions in JA2, the idea that "turn-based combat" can possibly occur and be inherent is not conceivable as JA2 explicitly sets forth the fact that "The game then switches back to real-time mode", once turn-based combat automatically ends.

For these reasons, JA2 fails to teach all of the elements recited in Applicants' independent claims 1, 7 and 8.

In light of the foregoing, Applicants respectfully request the Examiner withdraw the rejection against claims 1-3, 7 and 8 and find claims 1-3, 7 and 8 allowable.

#### Rejection under 35 U.S.C. §103(a)

The Examiner has rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over the JA2, as applied to claims 1-3, 7 and 8, where applicable, in view of U.S. Pat. No. 6,093,105 to Morihira.

Applicants' claim 4 depends upon independent claim 1.

The Examiner alleges the reference JA2 teaches generally the elements recited in claims 1-3, 7 and 8 at pages 4-5, 27-32, and 38-41. However, JA2 fails to disclose all of the elements recited in Applicants' independent claim 1. Applicants' independent claims 1, 7 and 8 recite the term, "wherein the real time generation of image data is free of a turn-based generation of image data". Applicants' claimed subject matter indicates the real time generation of image data is free of a turn-based

generation of image data. The examiner acknowledges and relies upon JA2 teaching turn-based combat play, which necessarily means the turn-based generation of image data.

For example, under the heading "Ending Combat" on page 32 of JA2, JA2 recites in part, "Turn-based combat automatically ends when your mercenaries go for a couple of turns without spotting a live enemy. **The game then switches back to real-time mode.**" (emphasis added). According to this description, the game is not being executed in "real-time mode" during the combat sequences in JA2. In contrast, the game embodied in the elements recited in Applicants' independent claim 1 does utilize a combat state occurring in real-time mode. Furthermore, due to the explicit instructions in JA2, the idea that "turn-based combat" can possibly occur and be inherent is not conceivable as JA2 explicitly sets forth the fact that "The game then switches back to real-time mode", once turn-based combat automatically ends.

Applicants contend Morihira fails to cure the deficiencies present in JA2, as Morihira fails to teach or suggest either the real time or turn-based generation of image data. Likewise, Morihira necessarily lacks the requisite motivation to alter its teachings or the teachings of JA2 to teach the real-time generation of image data in JA2 or executing a game in "real-time mode" during the combat sequences taught by JA2. Unlike Applicants' claimed subject matter, JA2 only teaches turn-based generation of image data and executing a game in turn-based mode during combat sequences.

In addition to, or in the alternative, the Examiner has engaged in hindsight reconstruction and utilized Applicants' claims 1 and 4 as a blueprint for constructing the present rejection under 35 U.S.C. §103(a). As JA2 explicitly teaches

that turn-based combat does not take place in real-time mode, the only source of information where the Examiner could find such teaching, suggestion and motivation is Applicants' independent claim 1 and dependent claim 4.

For these reasons, JA2 in view of Morihira fails to teach, suggest or motivate one of ordinary skill in the art all of the elements of Applicants' claims 1 and 4.

Applicants respectfully request the withdrawal of the rejection against claim 4 under 35 U.S.C. §103(a) and find claim 4 allowable.

# CONCLUSION

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

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